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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/585,765	12/17/2007	Wilhelm Baruschke	016906-0527	7818
22428	7590	03/27/2012	EXAMINER	
FOLEY AND LARDNER LLP			RUBY, TRAVIS C	
SUITE 500				
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WASHINGTON, DC 20007			3785	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/585,765	BARUSCHKE ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	TRAVIS RUBY	3785	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 22 December 2011.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) An election was made by the applicant in response to a restriction requirement set forth during the interview on \_\_\_\_\_; the restriction requirement and election have been incorporated into this action.
- 4) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 5) Claim(s) 1 and 27-51 is/are pending in the application.
  - 5a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 6) Claim(s) \_\_\_\_\_ is/are allowed.
- 7) Claim(s) 1 and 27-51 is/are rejected.
- 8) Claim(s) \_\_\_\_\_ is/are objected to.
- 9) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 10) The specification is objected to by the Examiner.
- 11) The drawing(s) filed on 22 December 2011 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>2/2/2012</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application |
|   | 6) <input type="checkbox"/> Other: _____ .                        |

## **DETAILED ACTION**

### ***Status of Claims***

1. The status of the claims as filed in the reply dated 12/22/2011 are as follows:

Claims 2-26 are cancelled by the applicant;

Claims 1, 27-51 are pending.

### ***Priority***

2. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Germany on 6/1/2004. It is noted, however, that applicant has not filed a certified copy of the 10-2004-026-912.1 application as required by 35 U.S.C. 119(b).
3. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Germany on 1/15/2004. It is noted, however, that applicant has not filed a certified copy of the 10-2004-002-364.6 application as required by 35 U.S.C. 119(b).

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1 and 27-51 are rejected under 35 U.S.C. 102(b) as being anticipated by Hara et al (US4949624, as previously cited).

**Re Claim 1.** Hara discloses a heating, ventilating or air-conditioning system for a vehicle, comprising:

a housing (20) that includes:  
at least one heat exchanger (30, 31) configured to condition air in the vehicle; and  
a blower (28) with at least one air duct (23) configured to feed the conditioned air,  
wherein the at least one air duct includes at least one air outflow vent (34) that is  
configured to receive the conditioned air, to divide the conditioned air into a first airflow and a  
second airflow and to distribute an air stream through an outlet opening (34a) into a passenger  
compartment (3) of the vehicle (Figure 2; Figure 3 illustrates that the air can be divided into  
multiple streams through the louvers 5; Column 4 line 36 to Column 5 line 32),  
wherein an outflow characteristic of the at least one air outflow vent is configured to be  
adjusted between the first airflow with a first characteristic having a scatter character (Column 5  
lines 57-64) and the second airflow with a second characteristic having a spot character (Column  
5 lines 49-57), and

wherein the at least one air outflow vent includes a metering device (4) configured to  
meter the first and second airflows prior to exiting through the outflow opening to form the air  
stream (Figure 3a, 3b; The louvers 4 can meter the amount of air leaving the vent).

**Re Claim 27.** Hara discloses a settable swirl of the air stream is configured to change the  
outflow characteristic (Figure 3a-b, 4a, Table 1; Column 5 lines 34-64; Column 8 lines 37-68).

**Re Claim 28.** Hara discloses the settable swirl is a maximum value for the scatter character and a minimum value for the spot character (Figure 3a-b, 4a, Table 1; Column 5 lines 34-64; Column 8 lines 37-68).

**Re Claim 29.** Hara discloses the outflow characteristic is open-loop controlled or closed-loop controlled as a function of at least one parameter and/or at least one operating state (Figure 4; Column 6 lines 4-25 & 57-61 discloses various sensors used to regulate the system) .

**Re Claim 30.** Hara discloses the outflow characteristic is open-loop controlled or closed-loop controlled as a function of at least one parameter (Tic) as a deviation from a setpoint value or as a difference from the setpoint value (Figure 4 steps 118, 120, and 122; Column 7 lines 8-15 & 44-60; Table 1).

**Re Claim 31.** Hara discloses the outflow characteristic is open-loop controlled or closed-loop controlled as a function of a parameter field or characteristic diagram of a plurality of parameters (Figure 4a).

**Re Claim 32.** Hara discloses the at least one parameter is a variable of a passenger compartment temperature (Tic), solar radiation (S), an external temperature (Ta) (Column 6 lines 4-35; Figure 4).

**Re Claim 33.** Hara discloses the outflow characteristic is set to the spot character when there is a first deviation of an actual value from a first setpoint value (Figure 4a step 116 "Yes" and 124; Table 1), is set to a scatter character when there is a second deviation of an actual value from a second setpoint value (Figure 4a step 122 "No" and 126; Table 1), and is set to an intermediate position between the spot character and scatter character for actual values between the first setpoint value and the second setpoint value (Figure 4a step 122 "Yes" and 128; Table 1).

**Re Claim 34.** Hara discloses a maximum amount of air flows out of the at least one airflow vent when the outflow characteristic is the second characteristic with the spot character (Figure 4a, Table 1).

**Re Claim 35.** Hara discloses a minimum amount of air flows out of the at least one airflow vent when the outflow characteristic is the first characteristic with the scatter character (Figure 4a, Table 1).

**Re Claim 36.** Hara discloses the at least one air outflow vent is a ventilation air outflow vent (34) (Figure 2).

**Re Claim 37.** Hara discloses the at least one air outflow vent is in a trim area or a pillar area of the passenger compartment (Figure 2; the dashboard is a piece of trim of the passenger compartment).

**Re Claim 38.** Hara discloses a method for controlling a heating, ventilating or air-conditioning system for a vehicle (Figure 4a-b) including

a housing (20) that includes: at least one heat exchanger (30, 31) configured to condition air in the vehicle; and a blower (28) with at least one air duct (23) configured to feed the conditioned air, wherein the at least one air duct includes at least one air outflow vent (34) that is configured to receive the conditioned air, to divide the conditioned air into a first airflow and a second airflow and to distribute an air stream through an outlet opening (34a) into a passenger compartment (3) of the vehicle (Figure 2; Figure 3 illustrates that the air can be divided into multiple streams through the louvers 5; Column 4 line 36 to Column 5 line 32), wherein an outflow characteristic of the at least one air outflow vent is configured to be adjusted between the first airflow with a first characteristic having a scatter character (Column 5 lines 57-64) and the second airflow with a second characteristic having a spot character (Column 5 lines 49-57), and wherein the at least one air outflow vent includes a metering device (4) configured to meter the first and second airflows prior to exiting through the outflow opening to form the air stream (Figure 3a, 3b; The louvers 4 can meter the amount of air leaving the vent); comprising:  
sensing at least one actual value (Tic) (Figure 4a; Column 7 lines 2-7;  
comparing the at least one actual value with at least one setpoint value (Tset) (Figure 4a;  
Column 7 lines 8-15);  
actuating an actuator element (8) of the at least one air outflow vent (Figure 3a-b;  
Column 8 lines 30-68); and

setting the outflow characteristic of the at least one air outflow vent (Figure 4a steps 124, 126, 128).

**Re Claim 39.** Hara discloses the outflow characteristic is open-loop controlled or closed-loop controlled as a function of at least one parameter (Figure 4; Column 6 lines 4-25 & 57-61 discloses various sensors used to regulate the system).

**Re Claim 40.** Hara discloses keeping the outflow characteristic constant at the second characteristic as a function of the at least one parameter starting from an initial value until a first parameter value is reached; then automatically changing the outflow characteristic continuously or in discrete increments until the first characteristic at a second parameter value is reached (Figures 4a-b; Column 7 lines 44 - Column 8 line 56; Table 1).

**Re Claim 41.** Hara discloses automatically changing the outflow characteristic continuously or in discrete increments, after the second parameter value is reached, to a third outflow setting until a third parameter value is reached (Figures 4a-b; Column 7 lines 44 - Column 8 line 56; Table 1).

**Re Claim 42.** Hara discloses the first, second, and/or third parameter values are defined as a function of a characteristic diagram (Figures 4a-4b; Table 1).

**Re Claim 43.** Hara discloses the third parameter value is a predetermined value and wherein the method further comprises keeping the outflow characteristic constant when the third parameter value is reached (Figures 4a-4b; Table 1).

**Re Claim 44.** Hara discloses the at least one parameter is a temperature parameter (Tic) and/or a time parameter (Figure 4a-4b; Column 6 lines 4-35).

**Re Claim 45.** Hara discloses the temperature parameter is a passenger compartment air temperature (Tic), an external air temperature (Ta) (Figure 4a-4b; Column 6 lines 4-35).

**Re Claim 46.** Hara discloses the outflow characteristic is open-loop controlled or closed-loop controlled as a function of a deviation of the at least one actual value from the at least one setpoint value (Figure 4 steps 118, 120, and 122; Column 7 lines 8-15 & 44-60; Table 1).

**Re Claim 47.** Hara discloses changing the outflow characteristic of the at least one air outflow vent according to a chronologically predetermined profile (Figure 4a-b; Table 1).

**Re Claim 48.** Hara discloses the outflow characteristic is the second characteristic having the spot character or a directed outflow (Figure 4a; Column 8 lines 29-36).

**Re Claim 49.** Hara discloses the outflow characteristic is the first characteristic having the scatter character or a diffuse outflow (Figure 4a; Column 8 lines 37-48).

**Re Claim 50.** Hara discloses a time for starting a sequence of the method is defined by switching on the heating, ventilating or air-conditioning system or by activating the vehicle (Figure 4a-b; Column 9 lines 19-51; Column 6 lines 62-68).

**Re Claim 51.** Hara discloses wherein there is sufficient heating power available to permit targeted, punctual heating at the time for starting the sequence of the method (Figure 4a-b; Column 4 lines 59-68; Column 9 lines 19-51; Column 6 lines 62-68).

#### ***Response to Arguments***

6. Applicant's arguments filed 12/22/2011 have been fully considered but they are not persuasive.
7. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., an airflow outflow vent that receives conditioned air and divides the conditioned air into two distinct and separate air streams in a single vent) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).
8. The applicant argues that Hara fails to teach "wherein the at least one air duct includes at least one air outflow vent that is configured to receive the conditioned air, to divide the conditioned air into a first airflow and a second airflow and to distribute an air stream through an outlet opening". The examiner traverses this assertion as Hara does disclose this limitation. As

can be seen in Figure 3 of Hara, the duct is divided by the louvers to create two distinct air streams before the air is distributed through the air outlet opening. Thus, the applicants' argument is not persuasive.

### ***Conclusion***

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TRAVIS RUBY whose telephone number is (571)270-5760. The examiner can normally be reached on Monday-Friday 9:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Swann can be reached on 571-272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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3744